

**FILED**

JUL 15 2013

  
CLERK

Cybil Fisher  
1609 Redstone Trail  
Green Bay, WI 54313  
Petitioner, *Pro Se*

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT COURT OF SOUTH DAKOTA**

<b>CYBIL FISHER,</b>	)	<b>CASE NO. 13-mc-73</b>
	)	
Petitioner,	)	
	)	
v.	)	
	)	<b>PETITION TO QUASH IRS</b>
<b>UNITED STATES OF AMERICA,</b>	)	<b>THIRD PARTY SUMMONS</b>
<b>INTERNAL REVENUE SERVICE, and</b>	)	
<b>JEFFREY HENCKE, SPECIAL AGENT ,</b>	)	
	)	
Respondents.	)	
_____	)	

COMES NOW Cybil Fisher, Petitioner, *pro se*, and petitions this Court to quash an Internal Revenue Service Third Party Administrative Summons.

**JURISDICTION**

1. This Court has jurisdiction pursuant to Title 26 U.S.C. § 7609 and Title 5 U.S.C. § 552(a).<sup>1</sup>
2. Venue is proper, because the custodian of records and records sought (the subject of this controversy) by the summonses to Citibank (South Dakota), NA which is within the United States District for the District of South Dakota.

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<sup>1</sup> All further references to Code Sections are to Title 26 unless otherwise noted.

## **PARTIES**

3. The Petitioner in this action is Cybil Fisher, (Fisher), whose address is 1609 Redstone Trail, Green Bay, WI 54313.

4. The Respondents in this action are the United States of America, the Internal Revenue Service (hereinafter "IRS") and Jeffrey Hencke, IRS Special Agent (Hencke).

5. Hencke is the IRS official that issued the alleged summons which is the subject of this controversy. Hencke's mailing address is 440 Security Blvd., Green Bay, WI 54313.

6. The Third Party from whom IRS seeks records is Citibank (South Dakota), NA 701 East 60<sup>th</sup> Street North, Sioux Falls, SD 57117-6034.

7. The third party summons was issued to Citibank (South Dakota), NA on June 19, 2013. (See Exhibit "A" the IRS summons issued to Citibank (South Dakota), NA, a true and correct copy attached hereto.) On or about July 17, 2013, Citibank (South Dakota), NA is scheduled to comply with the IRS summons, surrendering Fisher's records to the IRS.

## **CAUSES OF ACTION AGAINST RESPONDENTS**

For the Causes of Action against the Respondents, and each of them, Fisher alleges as follows:

### **I. First Cause of Action Against Respondents**

8. The Summons is in violation of the statutory summons process and should

be quashed because IRS failed to give Fisher timely notices required by 26 U.S.C., Section 7609(a)(1), *i.e.*, 23 days notice prior to the date set to turn over the records requested. As a consequence Fisher was not given the opportunity to timely file a Petition to Quash the Summons pursuant to Section 7609(b)(1).

## II. Second Cause of Action Against Respondents

9. The IRS is in violation of the statutory summons process as they failed to provide Fisher advance notice that contact with any of these third parties were to be made; and, failed to periodically provide Fisher with a record of persons contacted by IRS about Fisher as required by Section 7602(c)(1)&(2).

## III. Third Cause of Action Against Respondents

10. Fisher alleges upon information and belief that the Summons was issued while a referral for criminal prosecution to the Department of Justice is pending, which was made by the IRS in violation of Section 7602(d)(2)(A).

## IV. Fourth Cause of Action Against Respondents

11. Because of the violations and abuses of the summonses process as alleged within paragraphs 8 through 13, inclusive, the IRS failed to meet the "GOOD FAITH" requirement of the *Powell*<sup>2</sup> standard.

## V. Fifth Cause of Action Against Respondents

12. Respondents, contrary to law have caused, or will cause, Fisher's records to be turned over to the Respondents in violation of the banking and constitutional Privacy

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<sup>2</sup> *United States v. Powell*, 379 U.S. 48, 85 S.Ct. 248 (1964).


Laws of the United States of America and the constitutional privacy laws of the State of Wisconsin.

PRAYER FOR RELIEF

Wherefore, Fisher respectfully requests that this Court:

1. QUASH the third party administrative summonses of June 19, 2013, to Citibank (South Dakota), NA for the records pertaining to Cybil Fisher.
2. ORDER that the IRS turn over to Fisher a copy of any and all summonses and request for documents that were issued to third parties that were issued by IRS to any Third Parties to obtain records.
3. ORDER that the IRS turn over to Fisher any and all records that were or will be obtained, in its investigation of Fisher by any means that were not in full compliance with the summoning provisions of the Internal Revenue Code Section 7602, et seq. and Section 7609, et seq.
4. ORDER Respondent to pay Fisher \$1,000.00 for each violation of the State and Federal Privacy Laws.
5. Grant any and all other relief that the Court deems just and prudent, the foregoing considered.

Dated: 7-9, 2013


  
Cybil Fisher, *Pro Se* Petitioner  
1609 Redstone Trail  
Green Bay, WI 54313

**CERTIFICATE OF SERVICE**

I, Cybil Fisher, certify that pursuant to IRC §7609(b)(2)(B) true copies of the attached **“PETITION TO QUASH IRS THIRD PARTY SUMMONSES”** has been served, on this 9<sup>th</sup> day of July, 2013, via Certified Mail to each of the following parties:

Cert. Mail # 7011 3500 0000 2362 6073  
Internal Revenue Service  
ATTN: Jeffery Hencke, Special Agent  
440 Security Blvd.  
Green Bay, WI 54313

Cert. Mail # 7012 1640 0000 9580 0632  
Custodian of Records  
Citibank (South Dakota), NA  
701 East 60<sup>th</sup> Street North  
Sioux Falls, SD 57117-6034

  
Cybil Fisher, *pro se*

cc: United States District Court  
for the District Court of South Dakota  
400 South Phillips Avenue, Room 128  
Sioux Falls, SD 57104-6851